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BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AIMEE LYNN MILLER
1511 La Quinta Circle
Upland, CA 91784

Occupational Therapist No. OT 3766

Respondent.

Case No. OT2004-78

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 21, 2006, Complainant Heather Martin, in her official capacity as the Executive Officer of the California Board of Occupational Therapy, Department of Consumer Affairs, filed Accusation No. OT2004-78 against Aimee Lynn Miller (Respondent) before the California Board of Occupational Therapy.

2. On or about November 29, 2002, the California Board of Occupational Therapy (Board) issued Occupational Therapist License No. OT 3766 to Respondent. The Occupational Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2007, unless renewed.

3. On or about December 4, 2006, Lisa M. Daniele, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. OT2004-78, Statement to Respondent, Notice of Defense, and Request for Discovery to

1 Respondent's address of record with the Board, which was and is 1511 La Quinta Circle, Upland,
2 CA 91784. A copy of the Accusation, the related documents, and Declaration of Service are
3 attached as **Exhibit A**, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the
5 provisions of Government Code section 11505, subdivision (c).

6 5. On or about December 11, 2006, the certified mail return receipt card was
7 returned by the U.S. Postal service, showing Respondent's signature, indicating its receipt by
8 Respondent at the address of record on December 8, 2006. A copy of the certified mailing receipt
9 card returned by the U.S. Postal Service is attached hereto as **Exhibit B**, and incorporated herein
10 by reference. The first class mailing was not returned, and presumably was also delivered to

11 Respondent. 6. Government Code section 11506 states, in pertinent part:

12 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
14 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
15 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

16 7. Respondent failed to file a Notice of Defense within 15 days after service
17 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
18 Accusation No. .

19 8. California Government Code section 11520 states, in pertinent part:

20 "(a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions or
22 upon other evidence and affidavits may be used as evidence without any notice to
23 respondent."

24 9. Pursuant to its authority under Government Code section 11520, the Board
25 finds Respondent is in default. The Board will take action without further hearing and, based on
26 Respondent's express admissions by way of default and the evidence contained in board files
27 related to this matter and **Exhibits A and B**, finds that the allegations in Accusation No. OT2004-
28 78 are true.

1 10. “Methamphetamine,” is a Schedule II controlled substance as designated
2 by Health and Safety Code section 11055(d)(2) and is categorized as a “dangerous drug”
3 pursuant to Business and Professions Code section 4022.

4 11 Respondent is subject to disciplinary action pursuant to Business and
5 Professions Code section 2570.28, subdivision (e) and section 490, in that Respondent has been
6 convicted of two crimes substantially related to the qualifications, functions or duties of a
7 licensed occupational therapist, as follows:

8 a. On or about May 25, 2005, Respondent was convicted on a plea of nolo
9 contendere of two criminal violations: 1) violating one count of Vehicle Code section 23152,
10 subdivision (a), *a misdemeanor* (driving a vehicle with .08% or more alcohol); and 2) violating
11 one count of Health and Safety Code section 11377, subdivision (a), *a misdemeanor* (possession
12 of a controlled substance), in the Superior Court of California, County of Los Angeles, Metro
13 Judicial District, Case No. 5MT03217 entitled *The People of the State of California v. Aimee*
14 *Lynn Miller*.

15 b. The circumstances surrounding the convictions are that on or about
16 January 13, 2005, Respondent drove a vehicle while having .08% and more by weight, of
17 alcohol in her blood. In addition, at that time and place, Respondent wilfully and unlawfully was
18 in possession of a narcotic controlled substance, to wit: Methamphetamine.

19 12. Respondent is subject to disciplinary action pursuant to Business and
20 Professions Code section 2570.28, subdivision (a), on the ground of unprofessional conduct, as
21 defined in section 2570.29, subdivision (b)(3), in that on or about January 13, 2005, Respondent
22 used an alcoholic beverage to an extent or in a manner dangerous or injurious to herself, and the
23 public, when she operated a vehicle while having 0.08% and more, by weight, of alcohol in her
24 blood, at the time of the arrest leading to the May 2005 convictions, as more fully set forth in
25 paragraph 11 above.

26 13. Respondent is subject to disciplinary action pursuant to Business and
27 Professions Code section 2570.28, subdivision (a), on the ground of unprofessional conduct, as
28 defined in section 2570.29, subdivision (c), in that on or about May 25, 2005, Respondent was

1 convicted of a crime involving the consumption of alcohol, as more fully set forth in paragraph
2 11 above.

3 14. Respondent is subject to disciplinary action pursuant to Business and
4 Professions Code section 2570.28, subdivision (a), on the ground of unprofessional conduct, as
5 defined in section 2570.29, subdivision (a), in that on or about January 13, 2005, Respondent was
6 found to be in possession of a controlled substance, as more fully set forth in paragraph 11
7 above.

8 15. Respondent is subject to disciplinary action pursuant to Business and
9 Professions Code section 2570.28, subdivisions (a) and (h), on the ground of unprofessional
10 conduct, in that Respondent committed substantially related dishonest acts, on or about February
11 25, 2005 and December 20, 2005, by preparing and providing to the Board, false and misleading
12 written statements about the reasons for her January 2005 arrest, in which no reference is made to
13 her driving under the influence of alcohol or possession of methamphetamine.

14 10. The total costs for investigation and enforcement are \$2,800.00 (Two
15 Thousand, Eight Hundred Dollars) as of February 6, 2007.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Aimee Lynn Miller
18 has subjected her Occupational Therapist License No. OT 3766 to discipline under Business and
19 Professions Code section 2570.28, subdivision (e) and section 490; section 2570.28, subdivision
20 (a), on the ground of unprofessional conduct, as defined in section 2570.29, subdivision
21 (b)(3); section 2570.28, subdivision (a), on the ground of unprofessional conduct, as defined in
22 section 2570.29, subdivision (c); Business and Professions Code section 2570.28, subdivision (a),
23 on the ground of unprofessional conduct, as defined in section 2570.29, subdivision (a); and
24 Business and Professions Code section 2570.28, subdivisions (a) and (h).

25 2. A copy of the Accusation and the related documents and Declaration of
26 Service are attached.

27 3. The agency has jurisdiction to adjudicate this case by default.

28 4. The California Board of Occupational Therapy is authorized to revoke

1 Respondent's Occupational Therapist based upon the above referenced violations.

2 ORDER

3 IT IS ORDERED that Occupational Therapist License No. OT 3766, heretofore
4 issued to Respondent Aimee Lynn Miller, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may
6 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
7 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
8 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
9 statute.

10 This Decision shall become effective on April 15, 2007.

11 It is so ORDERED March 16, 2007

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14 FOR THE CALIFORNIA BOARD OF OCCUPATIONAL
15 THERAPY
16 DEPARTMENT OF CONSUMER AFFAIRS
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20 60193244.wpd

21 DOJ docket number:LA2006601074

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23 Attachments:

24 Exhibit A: Accusation No OT 2004 - 78 with Related Documents and Declaration of Service
25 Exhibit B: Certified Mailing Receipt Card
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